

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Daniel Shannon,) C/A No.: 6:12-2938-JFA-KFM
)
Plaintiff,) ORDER
)
v.))
)
South Carolina Department of Corrections;))
SCDC Director William Byars; Jon Ozmint;))
Warden Robert Ward; David McCall; Daniel))
Murphy; Elbert Pearson, Jannita Gaston;))
Dennis Patterson; Dedric Williams;))
Colie Rushton, SCDC; Aaron Joyner;))
Bernard McKie; Yvonne Lofton; Captain))
Vaughn Jackson; John Does; and Jane Does,))
)
Defendants.))
)

The *pro se* plaintiff, Daniel Shannon, brings this action pursuant to 42 U.S.C. § 1983, alleging that the defendants continue to violate his due process rights by failing to afford him adequate procedures when determining his continued retainment within the Maximum Security Unit at the South Carolina Department of Corrections.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the plaintiff's motion for class certification and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b)(1).

appointment of counsel should be denied. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The parties were notified of their right to file objections to the Report and Recommendation (ECF No. 103) which was filed on February 25, 2014. However, neither party has lodged objections and the time within which to do so has expired. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

The Magistrate Judge opines that the plaintiff has failed to meet his burden of proving the requirements of Rule 23 of the Federal Rules of Civil Procedure and thus, plaintiff's motion to certify a class should be denied. *See Lienhart v. Dryvit Sys., Inc.*, 255 F.3d 138, 146 (4th Cir. 2001). In addition, finding no exceptional or unusual circumstances presented by the plaintiff to justify appointment of counsel in this action, the Magistrate Judge recommends that this portion of the motion be denied as well.

The court has carefully reviewed the applicable laws, the record in this case, and the Report and Recommendation, and finds that the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is adopted and incorporated herein by reference.

Accordingly, the plaintiff's motion for class certification and appointment of counsel (ECF No. 83) is denied.

IT IS SO ORDERED.



March 25, 2014
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge